

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 331 w/CS Certified Nursing Assistants
SPONSOR(S): Machek & Others
TIED BILLS: **IDEN./SIM. BILLS:** SB 694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families	13 Y, 0 N w/CS	Meyer	Liem
2) Health Care			
3) Health Appropriations (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

HB 331 CS specifies that the Board of Nursing screen applicants for certification as nursing assistants (CNA) according to the Level 1 standards of chapter 435 and the Level 2 standards of that chapter if the applicant has not maintained continuous residency in the state for the past five years and according to the provisions of 464.20. Level 2 standards include a fingerprint-based search of the records of the Federal Bureau of Investigations.

After the Department of Health, Board of Nursing certifies a CNA, the Department, and the Agency for Health Care Administration will ensure that the background screening information is posted on the agency's Internet website in the background screening database.

The bill will reduce the duplication of screening now required of CNAs who wish to work in a long term care facility.

This bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0331a.fff.doc
DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The bill would eliminate the current practice of re-screening (for employment) certified nursing assistants who apply for work in a nursing facility.

The Board of Health is required to conduct a Level 1 or Level 2 background screening according to the same standards as nursing homes are required to meet when hiring certified nursing assistants in addition to the standards in 464.203.

In 1995 (95-228, L.O.F.), the Legislature created chapter 435, F.S., in an effort to consolidate all standards for background screening and requirements related to "good moral character" for licensure or employment into one statutory scheme. The Chapter also provides a process for granting an exemption for employment disqualification. AHCA has responsibility for employees who are not licensed or certified, and the Department of Health has responsibility for licensed or certified personnel. Chapter 435 provides for two levels of screening:

- Level 1 includes a statewide criminal records check;
- Level 2 requires a fingerprint-based check of the Federal Bureau of Investigations' data base.

Chapter 400, Part II, F.S., is the statutory framework for nursing homes. Section 400.215 provides that all personnel in the nursing home who:

- (a) provide personal care or services to residents;
- (b) have access to resident living areas; or
- (c) have access to resident funds or other personal property

must pass the background screening prescribed in chapter 435. Requiring background screening on the above criteria and, rather than by job title, has the effect of requiring staff such dietary aides, housekeeping, recreational therapists, nurses, and other non-licensed, non-certified personnel to pass the background screening. All of those non-licensed, non-certified personnel would be screened by AHCA, and if they had a disqualifying offense, would seek an exemption from employment disqualification from AHCA.

A person may work in a nursing home as a certified nursing assistant for up to four months under certain circumstances without having received certification as a CNA from the Board of Nursing. In this case, the person would be screened by AHCA for employment pursuant to section 400.215, F.S..

Later, if he or she applied to the Board of Nursing to be a CNA, the Board would then screen them to determine their suitability for CNA for certification. If they became certified, the Board would then have jurisdiction to provide an exemption from employment disqualification, if it were necessary.

Certified Nursing Assistants are governed by Part II of chapter 464, F.S.

C. SECTION DIRECTORY:

Section 1. Amends section 464.203, F.S., to add new subsections (8) and (9) related to background screening.

Section 2. Corrects a cross-reference.

Section 3. Amends 400.215, F.S.; adds that a CNA screened per 464.203, F.S., and who meets the other existing requirements for background screening, does not have to be re-screened.

Section 4. Provides an effective date: upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No revenue is generated by this bill.

2. Expenditures:

No new expenditures are required, and some savings might accrue from a decline in the number of background screenings conducted.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Applicants for the Certified Nursing Assistant certification would be spared the expense of repeating a background screening if they accepted employment within 90 days of the screening done for certification. Background screenings cost \$23.00 for a Level 1 and \$47.00 for a Level 2.

D. FISCAL COMMENTS:

This would reduce the workload at the Agency for Health Care Administration by removing the requirement that qualifying CNAs repeat the background screening. Reducing the number of screenings done by AHCA and by nursing homes would result in some savings to Medicaid because some of those costs are reimbursed by Medicaid.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

B. RULE-MAKING AUTHORITY:

No new rule making authority is provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES